

PTO/SB/64 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

170707-1016

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First named inventor: *Thomas L. Barthart*Application No.: *10/681,587*

Art Unit:

NOV 03 2004

Filed: *10/7/03*

Examiner:

Title: *Hidden Image Game Piece*

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1370 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Filing Fee, Surcharge, Notice to File (identify type of reply):

has been filed previously on _____

is enclosed herewith.

*Mising Parts, and Petition
Regarding Evidence
of Deposit
(with Exhibits)*

B. The issue fee and publication fee (if applicable) of \$ 790 (Filing Fee), + 130 (Surcharge)

has been paid previously on _____

is enclosed herewith.

+ 130 Petition Fee, + 1370 Reward

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (09-04)

Approved for use through 07/31/2006, OMB 0551-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

 Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required. A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Matthew Montesi
Signature11/3/04

Date

Matthew Montesi
Typed or printed name

Registration Number, if applicable

8160 Winged Foot Drive
Address(770) 844-7084

Telephone Number

Atlanta Georgia 30350
AddressEnclosures: Fee Payment Reply to Notice to File Missing Parts and Petition regarding Evidence Deposit (with Exhibits) Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

 Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9308.11/3/04Sanford J. Asman
SignatureSanford J. Asman, Reg. No. 26251
Typed or printed name of person signing certificate

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NOV 03 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Ser. No. : 10/681,587

Applicant(s) : Thomas Barnhart, et al.

For : HIDDEN IMAGE GAME PIECE

Filed : October 7, 2003

Anticipated Art Unit : 3624

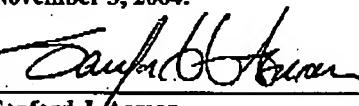
Anticipated Examiner : Daniel S. Felton

Docket No. : 170707-1016

Customer No. : 24973

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that I am transmitting this correspondence to the United States Patent and Trademark Office, by facsimile to (703) 872-9306 on November 3, 2004.


Sanford J. Asman
PETITION REGARDING EVIDENCE DEPOSIT

Hon. Commissioner for Patents
Washington, DC 20231

Sir:

REMARKS

This Petition accompanies a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

Accompanying this Petition Regarding Evidence Deposit is a copy of a Notice to File Missing of Nonprovisional Application Filed Under 37 CFR 1.53(b) (Filing Date Granted) which was mailed on February 3, 2004.

The Notice to File Missing Parts enumerates that the filing fee was missing from the application as filed, and it solicits payment of the filing fee, along with the surcharge for late filing. In addition, the Notice to File Missing Parts states that Figure 4 of the Drawing described in the specification was omitted.

Enclosed herewith, along with the foregoing Petition for Revival of an Application Abandoned Unintentionally, the copy of the Notice to File Missing Parts, and the present Petition Regarding Evidence of Deposit, are the following items:

- (1) **Exhibit 1** - Copy of Transmittal Letter which accompanied the application, as filed, including a statement that "5 Sheets of Formal Drawing", and a Preliminary Amendment were included in the transmittal. The Transmittal Letter included a "CERTIFICATE OF FILING BY EXPRESS MAIL", certifying that the application was accompanied by the "5 Sheets of Formal Drawing" and the Preliminary Amendment, and that the same were deposited using Express Mail, Mailing Label ER557664156US.
- (2) **Exhibit 2** - Customer Copy of Express Mail receipt ER557664156US, showing that the foregoing Transmittal Letter, accompanied by the items set forth therein (including the 5 sheets of drawing, and the Preliminary Amendment), were duly deposited as Express Mail, Post Office to Addressee on October 7, 2003.
- (3) **Exhibit 3** - Post Card Receipt 22581, showing receipt by the U.S. PTO in Ser. No. 10/681587 on "100703" of the items set forth therein, including, "5 sheets of Formal Drawing" and "Preliminary Amendment".
- (4) **Exhibit 4** - A copy of "FIG 4", the top of which is labeled "5/5", the same corresponding to the sheet of drawing (i.e., Sheet 5 of 5 sheets) which was apparently misplaced in the Patent Office.

(5) **Exhibit 5 - A copy of numbered page 5 and unnumbered page 6 of the Preliminary Amendment, stating:**

Cross-Reference to Related Applications and Patents

The present application is a division of U.S. patent application Ser. No. 09/437,254 filed November 10, 1999, which was a division of U.S. patent application Ser. No. 09/081,795, filed May 20, 1998, now U.S. Patent No. 5,984,367. The present application is also a division of U.S. patent application Ser. No. 10/173,529 filed June 17, 2002, which was a division of U.S. patent application Ser. No. 09/634,111, filed August 8, 2000, now U.S. Patent No. 6,406,062 entitled HIDDEN IMAGE GAME PIECE, which was a continuation-in-part of U.S. patent application Ser. No. 09/437,254, filed November 10, 1999, now U.S. Patent No. 6,296,900, issued October 2, 2001, entitled HIDDEN IMAGE GAME PIECE, filed November 10, 1999, which was a continuation of U.S. patent application Ser. No. 09/081,795, filed May 20, 1998, now U.S. Patent No. 5,984,367, issued November 16, 1999, entitled HIDDEN IMAGE GAME PIECE. U.S. patent application Ser. No. 09/634,111, now U.S. Patent No. 6,406,062 was also a continuing prosecution application of provisional application Ser. No. 60/148,226, filed August 9, 1999 entitled ORIGINAL NET DECODER.

(6) **Exhibit 6 - Filing Receipt (Confirmation No. 6858) showing that the foregoing information from the Preliminary Amendment was included as "Domestic Priority data as claimed by applicant".**

(7) **Exhibit 7** - FIG. 4 (Sheet 5 of 5) from U.S. Patent No. 6,296,900, issued October 2, 2001, which is referenced in the Preliminary Amendment (Exhibit 5) and Filing Receipt (Exhibit 6)

In view of the accompanying Certificate of Transmittal by Express Mail (Exhibit 1), showing transmittal of Sheet 5, containing FIG. 4, and the Post Card Receipt (Exhibit 3) acknowledging receipt of five sheets of drawings by the Patent Office, along with the fact that the "Domestic Priority" asserted on Page 5 of the Preliminary Amendment (Exhibit 5) was duly copied onto the Filing Receipt (Exhibit 6), it is clear that Sheet 5, containing FIG. 4 (Exhibit 4), was, in any event a part of several prior listed applications and issued patents, all of which were properly referenced, so as to preclude any issue that FIG. 4, a copy of which is included herewith, introduces new matter.

In view of the foregoing, applicants respectfully submit that the enclosed Sheet 5/5, including FIG. 4 (Exhibit 4), is merely a replacement for the sheet, apparently misplaced in the Patent Office, and that it is not new matter. As such the Petition Fee of \$130 which is part of the present submission, should be refunded.

Respectfully submitted,



Sanford J. Asman
Attorney for Applicant
Registration No. 26,251

Attachments:

- (1) Petition for Revival (2 Sheets)
- (2) Copy of Notice to File Missing Parts (2 Sheets)

- (3) Fee Transmittal for FY 2005 (1 Sheet)
- (4) Credit Card Payment Form (1 Sheet)
- (5) Transmittal Letter which accompanied application – **Exhibit 1** - (1 Sheet)
- (6) Copy of Express Mail receipt ER557664156US – **Exhibit 2** - (1 Sheet)
- (7) Copy of Post Card Receipt – **Exhibit 3** - (1 Sheet)
- (8) Copy of “FIG 4”, the top of which is labeled “5/5” – **Exhibit 4** - (1 Sheet)
- (9) Copy of the numbered page 5 and unnumbered page 6 of the Preliminary Amendment – **Exhibit 5** - (2 Sheets)
- (10) Application Filing Receipt – **Exhibit 6** - (1 Sheet)
- (11) Drawing Sheet 5 of 5 from cited U.S. Patent No. 6,296,900 – **Exhibit 7** - (1 Sheet)

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